IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
ORIGINAL JURISDICTION

Dated: Nainital the 16th day of July 2005
Criminal Misc. Bail application No. 608/ 2005
Order on the bail application of accused

CRIMINAL SIDE
Mohan Pal S/o Bhura Ram
R/o R.Z. - 18
Sagarpuri Dabari
Gali No.2
Delhi- 1100 45 ……. Applicant.

Versus

State of Uttaranchal ….Opposite Party

Arising out of Case Crime No. 1189 of 2004
U/s 406, 420,120-B I.P.C.
P.S. Kotwali Pithoragarh
District Pithoragarh

Hon'ble J.C.S Rawat, J.

Heard Sri Amish Tiwari learned counsel for the applicant and learned A.G.A. for the State.

Perused the FIR as well as the case-diary. The alleged incident is said to have been taken place in the month of April 2003, however, the FIR was lodged 4.9.2005 after a lapse of about one year. The money was entrusted to the co-accused Chandran Singh. Co-accused Chandra Singh, who is the main accused, has already been released on bail by the Sessions Judge vide order dated 16.10.2004. However, a notary affidavit was filed before the learned Sessions Judge and the learned Sessions Judge has relied upon the said affidavit and granted the bail to the main accused-Chandra Singh. Though, the learned Sessions Judge should not have relief upon the aforesaid affidavit. The learned counsel for the applicant contended that it is not in the case-diary that the said affidavit or declaration was signed in presence of the witnesses. It is specific allegation that the money was given to Chandra Singh at Pithoragarh. Considering the facts and totality of the circumstances of the case, it is a fit case for bail.

Let the applicant-accused be released on bail on executing a personal bond and two sureties each in the like amount to the satisfaction of the C.J.M. concerned.

(J.C.S. Rawat, J.)

Dated 16.07.2005

LSR